

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/17/0531

Re: Property at 7 Longcroft Road, Hawick, TD9 0BT ("the Property")

Parties:

Mr Bruce Short, Mrs Michelle Short, 8 Daykins Drive, Hawick, TD9 8PF ("the Applicant")

Miss Jane O'Rourke, 12 Bailleul Grove, Hawick, TD9 9PP ("the Respondent")

Tribunal Members:

Jan Todd (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

- **Background**

This was a hearing to hear evidence about the sums claimed by the Applicant for rent arrears and damage allegedly due by the Respondent when she left the Property in June 2017. There had been a case management discussion held at Hawick on 14th March 2018 which the Applicant attended and the Respondent did not. The Tribunal asked for clarification through a series of directions on the amount of rent due and outstanding, for a quote for a replacement door to be lodged, and for evidence as to the cost and need for reimbursement for cleaning.

- **The Hearing**

At the hearing today the solicitor for the Applicant Mr Bannerman appeared along with Mr Bruce Short, one of the Applicants and joint landlord. Notice of the Hearing had been served on the Respondent by Sheriff Officer on 29th

March 2018, along with notice of a change to the sum claimed by the Applicant, and copy photographs of damaged and soiled carpets, and pictures of the general condition of the Property after the Respondent had left. The photographs and change to the sum claimed were submitted by Mr Bannerman by letter to the Tribunal dated 26th March. Despite notice of the Hearing being served by Sheriff Officers on the Respondent the Respondent did not attend the Hearing.

The Tribunal noted that the following written pieces of evidence had been lodged:-

1. The said photographs of soiled carpets and general dirt in the Property at the end of the tenancy.
2. A photograph of the front door with a cat flap in it.
3. An up to date rent statement showing a final sum due including sums due in lieu of notice to quit of £789.21.
4. At the Hearing Mr Bannerman on behalf of the Applicant submitted a quotation from a cleaning company "Sparkling House Cleaning Services" for what he and Mr Short advised that company would have charged to clean the Property had they been asked to do it and it was in the condition left by the tenant. The sum in the quotation is £220 based on 20 hours at £11 an hour.
5. Copy bank statements for a period of 6 weeks supporting the rent statement

The Tribunal went on to hear verbal evidence from Mr Short and submissions from Mr Bannerman regarding the claim for payment.

Findings in Fact

The Tribunal finds the following facts:-

1. The Applicant and Respondent entered into a lease of the Property from 17th January 2016 until the tenant vacated the property in or around 4th June 2017.
2. The Applicant and Respondent entered into and agreed the terms of that lease of the Property by a written tenancy agreement. The rent payable latterly was £87.69 a week payable in arrears.
3. The Respondent occupied the Property until 4th June 2017.
4. The Respondent left the Property without giving the required one month's notice in writing, however, she did give a few days verbal notification.
5. The arrears of rent due as at 2nd June 2017 (the last date of payment of rent by the tenant) were £438.45. The further sum of £350.76 is due in lieu of notice from 9th June 2017 to 30th June 2017, giving a total due for rent arrears of £789.21.
6. The Respondent asked the Respondent if she could keep a dog in the Property approximately 6/8 months after the commencement of the tenancy. The dog had already been in the Property around 4 weeks. The Applicant reluctantly agreed to this.
7. The Respondent also had a cat in the Property and altered the front door to insert a cat flap.
8. The Respondent did not seek, and the Applicant did not give permission for the cat or the alteration to the door.

9. The front door has been altered without permission. Noted the cat flap has been inserted back to front.
10. At the end of the tenancy the carpets and flooring were soiled and badly stained, there was general dirt and filth in the Property and the ceilings were stained by tobacco smoke.
11. The Respondent has breached the terms of her tenancy agreement by keeping a pet without permission, leaving the property in a poor state and damaging the carpets and door.
12. A deposit was made by the Respondent to the Applicant at the commencement of the tenancy in the sum of £350 and not £380 as stated in the tenancy agreement. This sum was retained by the Respondent and not lodged with a tenancy deposit scheme, which the Tribunal notes it should have been.
13. The sum claimed represents a reasonable amount to reimburse the landlord for the rent due, and to cover the replacement carpets and damage to the Property.

Reasons

- The Respondent has lodged written evidence of damage to the carpets and general condition of the property and Mr Short spoke to this evidence explaining that after the Respondent left the tenancy he attended the Property and could smell the urine from the carpets, as well as seeing the carpets were damp and some water had penetrated to the flooring underneath. This was supported by the photographic evidence. Mr Short advised that he had spent 4 half days cleaning and ripping out the carpets and that due to the state of the property a deep clean was necessary. He also advised the Respondent had been smoking in the property and this had left ingrained tobacco stains on the ceiling which he required to clean as well.
- With regard to the alteration to the front door, Mr Short confirmed at no point did he know of or was asked about a cat staying in the property. He was annoyed about the dog which he claimed was already staying there when the Respondent asked if that was ok. Mr Short felt he had no choice but to allow the dog but he categorically refuted he had granted permission for a cat or a cat flap and confirmed he did not want the door altered as he felt it might put other tenants off. He confirmed that estimate lodged for the cost of a new door was a reasonable one and that the door had been in good order before it was altered without permission and would not otherwise need replaced.
- With regard to the rent arrears Mr Bannerman pointed out it is a condition of the tenancy agreement in clause 34 that one month's rent is due and payable and that the Respondent by leaving without due notice was due to pay another 4 week's rent.
- Regarding the cleaning, Mr Short advised the Property needed a deep clean, that it had taken him and his wife 4 half days to clean it and to substantiate the cost claimed he submitted a professional cleaning company's estimate which they advised him they thought would take 20 hours at their price of £11 an hour.
- Given the clear and credible evidence of Mr Short and the photographic evidence, the Tribunal accepted the carpets were damaged by the Respondent and that in terms of clause 8 of the agreement the Tenant is

responsible for damage caused to contents which are not fair wear and tear. The sum due to replace these carpets is £720 as set out in the invoice for the replacement carpets submitted with the application.

- The Tribunal also found that given clause 16 of the agreement states that there should be no alteration to the property the tenant is in breach of that by causing a cat flap to be inserted into the front door and accepts that £738 is a reasonable replacement cost for a new door as per the estimate produced, which shows a like for like door.
- The tenant did not give sufficient notice to leave and has rent arrears so the Tribunal finds that the rent statement is accurate in showing the sum of £789.21
- Finally the Tribunal notes the sum of £200 is claimed for cleaning but the final total sum claimed in terms of the Applicant's letter of 26th March amounts to £1,895. Given the sums already agreed as due by the Tribunal for the carpets, door and rent amount to £2,247.21, from which the deposit of £350 as agreed by the Applicant has to be deducted, this leaves a sum due of £1897.21. The Applicant is only claiming £1,895 so the Tribunal accepts that the figure of £1895 is a reasonable amount to reimburse the Respondent for damage to the Property and rent arrears and does not make a finding in relation to cleaning costs because this is not needed .

Decision

- **The Tribunal finds the Respondent in breach of several terms of her tenancy agreement with the Applicant and as such finds her liable to the Applicant for the sum of £1895 for the reasons stated above.**

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

J Todd

Legal Member/Chair

18/4/18

Date